

JAN 21 2022

A BILL FOR AN ACT

RELATING TO RENTAL DISCRIMINATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The federal housing choice voucher program,
2 also known as Section 8, provides federally funded, tenant-based
3 vouchers to low-income households that are responsible for
4 finding appropriate rental units in the private market. A
5 challenge once a household receives a Section 8 voucher is
6 finding a landlord willing to accept it. The legislature
7 believes that renters who participate in housing assistance
8 programs, such as Section 8, should have an equal opportunity to
9 find housing and should not be discriminated against because
10 their source of income includes funds from housing assistance
11 programs.

12 Studies have shown that when there are laws to prevent
13 discrimination against renters with housing assistant vouchers,
14 the renters are twelve per cent more likely to find housing.
15 The American Bar Association adopted a resolution in 2017
16 calling for enactment of laws that ban housing discrimination
17 based on lawful sources of income. The legislature notes that



1 source of income discrimination laws do not alter or restrict
2 the standard industry practices to vet prospective renters.
3 Rather, these laws prohibit landlords from rejecting prospective
4 renters who receive Section 8 vouchers or other housing
5 assistance simply because of the voucher or assistance.

6 The legislature finds that ten states, the District of
7 Columbia, fourteen counties, and fifty-six major cities across
8 the country have laws that prohibit source of income
9 discrimination in housing. Honolulu is one of the largest
10 cities in the United States that does not prohibit source of
11 income discrimination in housing.

12 The legislature finds that low-income individuals
13 experience extreme difficulty in finding affordable rentals in
14 Hawaii. Prior to the coronavirus disease 2019 (COVID-19)
15 pandemic, news reports, locally and nationally, documented that
16 prospective tenants are often rejected by landlords due to their
17 use of Section 8 vouchers or other forms of housing assistance,
18 or based on requirements for participation in a housing
19 assistance program. This situation becomes all the more
20 frustrating when housing vacancy advertisements state "no
21 Section 8 accepted" or "Section 8 need not apply" in an effort



1 to prevent low-income individuals receiving housing assistance
2 from being considered as tenants.

3 The COVID-19 pandemic and resulting economic conditions
4 have impacted many residents' ability to pay their rent. An
5 August 2020 survey of two hundred seventy-one landlords and
6 property managers statewide conducted by the economic research
7 organization at the University of Hawaii indicated that more
8 than nine thousand households were two months or more behind in
9 rent, and that more tenants were thirty days behind in rent than
10 prior to the pandemic.

11 Prior to the pandemic, nationally, eighty-three per cent of
12 households participating in Section 8, were led by women.
13 Currently, there are more than twenty-two thousand single
14 mothers in Hawaii, and ninety-two per cent of fifty-five single
15 mothers surveyed in Hawaii during the COVID-19 pandemic reported
16 that they have lost financial independence due to the economic
17 crisis. Allowing landlords to consider a rental applicant's
18 source of income can also function as a proxy for discrimination
19 against single mothers.

20 The purpose of this Act is to prohibit discrimination in
21 rental transactions based on participation in any government



1 rental assistance program, including low-income housing
2 assistance under the United States Housing Act of 1937, title 42
3 United States Code section 1437f, as amended.

4 SECTION 2. The Hawaii Revised Statutes is amended by
5 adding a new chapter to be appropriately designated and to read
6 as follows:

7 "CHAPTER

8 RENTAL DISCRIMINATION BASED ON SOURCE OF INCOME

9 § -1 Definitions. As used in this chapter:

10 "Housing assistance program" means any government rental
11 assistance program, including low-income housing assistance
12 under the United States Housing Act of 1937, 42 U.S.C. § 1437f,
13 as amended.

14 "Rental transaction" means any part of the process for the
15 rental or lease of a premises for residential purposes.

16 "Steer" means the practice of directing persons who seek to
17 enter into a rental transaction toward or away from the premises
18 to deprive them of the benefits of living in a discrimination-
19 free environment.



1 § -2 Discriminatory practices in a rental transaction
2 based on source of income. (a) It shall be a discriminatory
3 practice for a landlord to:

4 (1) Indicate in any manner used to advertise the
5 availability of a rental property that the landlord
6 will not rent a property to a person participating in
7 a housing assistance program;

8 (2) Discourage in any manner a person from seeking to
9 engage in a rental transaction based on the person's
10 participation in a housing assistance program;

11 (3) Refuse to engage in a rental transaction with a person
12 because of the person's participation in a housing
13 assistance program or requirements related to
14 participation in a housing assistance program;

15 (4) Require rental conditions that are different from
16 those required for a person not participating in a
17 housing assistance program; or

18 (5) Represent to a person that real property is not
19 available for inspection, sale, rental, or lease when
20 in fact it is available, or to fail to bring a
21 property listing to the person's attention, or to



1 refuse to permit the person to inspect real property,
2 or to steer a person seeking to engage in a rental
3 transaction.

4 (b) Nothing in this section shall be deemed to prohibit a
5 landlord from determining in a commercially reasonable manner
6 the ability of a potential tenant to pay rent by:

7 (1) Verifying the source and amount of income of the
8 potential tenant; or

9 (2) Evaluating the stability, security, and
10 creditworthiness of the potential tenant or any source
11 of income of the potential tenant;

12 provided that if a landlord requires that a potential tenant
13 have a certain minimum level of income, the standard for
14 assessing eligibility shall be based only on the portion of the
15 rent to be paid by the tenant, taking into account the value of
16 any federal, state, or local rental assistance or housing
17 subsidy.

18 § -3 Remedies. (a) Any individual claiming to be
19 aggrieved by an alleged unlawful discriminatory practice by a
20 landlord may bring a civil action in district court within one



1 year of the occurrence of the alleged violation for appropriate
2 injunctive relief and damages.

3 (b) In an action brought pursuant to subsection (a), a
4 district court may issue an injunction to enjoin violation of
5 this chapter. If the court issues an injunction, the court may
6 also award damages not to exceed \$5,000 to the person bringing
7 the action, and reasonable attorney's fees and costs incurred in
8 the civil action."

9 SECTION 3. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 4. This Act shall take effect upon its approval.

13

INTRODUCED BY:

A handwritten signature in black ink, appearing to be "J. A.", written over a horizontal line.

S.B. NO. 2399

Report Title:

Rental Discrimination; Source of Income; Prohibited Practices;
Housing Assistance Programs

Description:

Prohibits discrimination in rental transactions based on participation in any government rental assistance program, including low-income housing assistance under the United States Housing Act of 1937, 42 U.S.C. § 1437f, as amended.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

